IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.961 OF 2006
IN
WRIT PETITION NO.1572 OF 1987

Shri Shankar Dnyanu
Ingale and Others .. Applicants.
Vs.
The State of Maharashtra & Ors. .. Respondents.

Mr.S.V.Sadavarte for the applicants.
Mr.P.M.Patil AGP for the respondents.

CORAM : B.H.MARLAPALLE & D.B.BHOSALE, JJ.
DATED : APRIL 4, 2006.

P.C:

. Writ petition No.1572/87 was dismissed for non prosecution on 22.2.2006 and hence this application for restoration.

2. We have heard Mr.Sadavarte, the learned counsel for the applicants and perused the order dated 22.2.2006. The observations made therein indicate that writ petition No.1572/87 was dismissed for default initially on 6th December, 1996 and was restored on 16th July, 2001. Again office objections could not be removed and the petition was dismissed for default. This Court has taken serious note of the conduct of the applicants.

3. Having regard to the observations made by this Court in the order dated 22.2.2006 we are not inclined to allow this application. We have also

noted that in writ petition no.1572/87 declaration was sought that the impugned provisions of the Maharashtra Resettlement of Project Displaced Persons (Amendment and Validation) Act, 1983 are ultra vires of the Constitution and be struck down. We do not see any reason to entertain the same challenge after about 20 years when the impugned declaration issued under section 6 of the Land Acquisition Act was dated 15.10.1986. The only remedy available to the applicants now is to apply to the State Government or the competent authority of the State Government for withdrawal from the land acquisition in case the applicants are still in possession of the subject land on account of the interim order passed by this Court on 9.1.1996. In fact the notification dated 15.10.1986 came to be stayed for almost after ten years while granting Rule on 9.1.1996.

4. Hence this application fails and the same is hereby rejected. However, the applicants are at liberty to approach the competent authority with a request to withdraw from the acquisition of their land for rehabilitation of the project affected persons, in case the applicants are still in possession of the subject land.

(D.B.BHOSALE, J.) (B.H.MARLAPALLE, J.)